



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0187; FRL-9948-01-Region 9]

Limited Disapproval of Air Plan Revisions; Arizona; New Source Review; PM_{2.5}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited disapproval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP) under the Clean Air Act (CAA or Act). This ADEQ-submitted SIP revision primarily was intended to serve as a replacement of ADEQ's SIP-approved rules for the issuance of New Source Review (NSR) permits for stationary sources, including but not limited to the rules governing the review and permitting of major sources and major modifications under the Act. This action concerns only the major nonattainment NSR provisions in ADEQ's submittal as they pertain to the Nogales and West Central Pinal nonattainment areas for particulate matter with a diameter of 2.5 micrometers or less (PM_{2.5}). The EPA previously finalized a limited approval for these PM_{2.5} nonattainment areas related to certain major nonattainment NSR permitting requirements for PM_{2.5} under the CAA. We subsequently proposed a limited disapproval for these PM_{2.5} nonattainment areas to set the stage for remedying certain deficiencies related to these nonattainment NSR permitting requirements for PM_{2.5}, and this action finalizes this limited disapproval.

DATES: This rule will be effective on **[Insert date 30 days after the date of publication in the**

Federal Register].

ADDRESSES: The EPA has established docket number EPA-R09-OAR-2015-0187 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region IX, (415) 972-3811, *beckham.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On May 2, 2016, the EPA proposed a limited disapproval of the major nonattainment NSR portion of ADEQ’s NSR SIP submittal for PM_{2.5} as it pertains to the requirements of CAA

section 189(e). See 81 FR 26185. ADEQ's NSR SIP submittal generally includes requirements for the PM_{2.5} nonattainment NSR program for major sources consistent with the provisions promulgated in the EPA's 2008 NSR PM_{2.5} Rule. Specifically, ADEQ's NSR SIP submittal includes the PM_{2.5} significant emission rates at R18-2-101(130), regulation of certain PM_{2.5} precursors (SO₂ and NO_x) at R18-2-101(130), the regulation of PM₁₀ and PM_{2.5} condensable emissions at R18-2-101(122)(f), and the emissions offset requirements at R18-2-403(A)(3). The EPA approved these provisions into ADEQ's SIP as part of a limited approval and limited disapproval, and other actions, on November 2, 2015 (80 FR 67319). At that time, we did not determine that the submittal fully addressed section 189(e) in title I, Part D, subpart 4 of the Act, related to NSR permitting requirements for PM_{2.5} for major stationary sources in PM_{2.5} nonattainment areas, and instead finalized a limited approval related to the requirements of subpart 4 based on this issue.

For PM_{2.5} nonattainment areas, CAA section 189(e) requires that the control requirements applicable under plans in effect under part D of the CAA for major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{2.5} levels that exceed the standards in the area. In our May 2, 2016 proposed action, we proposed to determine that ADEQ's NSR SIP submittal does not fully satisfy the major nonattainment NSR requirements for PM_{2.5} under section 189(e) of the Act for the Nogales and West Central Pinal PM_{2.5} nonattainment areas, based on our finding that the submittal does not include rules regulating VOCs or ammonia as PM_{2.5} precursors under the major source nonattainment NSR program, nor does it include a demonstration showing that the regulation of VOCs and ammonia is not

necessary under section 189(e).

The preamble in the Federal Register notification for our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

The EPA's May 2, 2016 proposed action provided a 30-day public comment period. During this period, we did not receive any comments on our proposal.

III. EPA Action

No comments were submitted on our proposed action. Therefore, as authorized in sections 110(k) of the Act, the EPA is finalizing a limited disapproval of the ADEQ NSR SIP submittal for the Nogales and West Central Pinal PM_{2.5} nonattainment areas under section 189(e) of the Act related to PM_{2.5} precursors.

As a result of this final action, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) to address the deficiencies that are the subject of this action unless we approve subsequent SIP revisions that correct the deficiencies within 24 months. In addition, sanctions will be imposed unless the EPA approves subsequent SIP revisions that correct these deficiencies within 18 months of the effective date of this action. These sanctions would be imposed under section 179 of the Act and 40 CFR 52.31.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area

where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**insert date 60 days after the date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: June 13, 2016.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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